

prevent amounts from being duplicated or omitted is to be taken into account. See section 481 and the regulations thereunder, relating to certain adjustments resulting from accounting method changes, and section 472 and the regulations thereunder, relating to adjustments for changes to and from the last-in, first-out inventory method. For any Form 3115 filed on or after May 15, 1997, see § 1.446-1T(e)(3)(i)(B).

(ii) Notwithstanding the provisions of paragraph (e)(3)(i) of this section, the Commissioner may prescribe administrative procedures under which taxpayers will be permitted to change their method of accounting. The administrative procedures shall prescribe those terms and conditions necessary to obtain the Commissioner's consent to effect the change and to prevent amounts from being duplicated or omitted. The terms and conditions that may be prescribed by the Commissioner may include terms and conditions that require the change in method of accounting to be effected on a cut-off basis or by an adjustment under section 481(a) to be taken into account in the taxable year or years prescribed by the Commissioner.

(iii) This paragraph (e)(3) applies to Forms 3115 filed on or after December 31, 1997. For other Forms 3115, see § 1.446-1(e)(3) in effect prior to December 31, 1997 (§ 1.446-1(e)(3) as contained in the 26 CFR part 1 edition revised as of April 1, 1997).

(4) *Effective date*—(i) *In general.* Except as provided in paragraphs (e)(3)(iii) and (e)(4)(ii) of this section, paragraph (e) of this section applies on or after December 30, 2003. For the applicability of regulations before December 30, 2003, see § 1.446-1(e) in effect prior to December 30, 2003 (§ 1.446-1(e) as contained in 26 CFR part 1 edition revised as of April 1, 2003).

(ii) *Changes involving depreciable or amortizable assets.* With respect to paragraph (e)(2)(ii)(d) of this section, paragraph (e)(2)(iii) *Examples 9 through 19* of this section, and the language “certain changes in computing depreciation or amortization (see paragraph (e)(2)(ii)(d) of this section)” in the last sentence of paragraph (e)(2)(ii)(a) of this section—

(A) For any change in depreciation or amortization that is a change in meth-

od of accounting, this section applies to such a change in method of accounting made by a taxpayer for a depreciable or amortizable asset placed in service by the taxpayer in a taxable year ending on or after December 30, 2003; and

(B) For any change in depreciation or amortization that is not a change in method of accounting, this section applies to such a change made by a taxpayer for a depreciable or amortizable asset placed in service by the taxpayer in a taxable year ending on or after December 30, 2003.

[T.D. 6500, 25 FR 11708, Nov. 26, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.446-1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§ 1.446-2 Method of accounting for interest.**

(a) *Applicability*—(1) *In general.* This section provides rules for determining the amount of interest that accrues during an accrual period (other than interest described in paragraph (a)(2) of this section) and for determining the portion of a payment that consists of accrued interest. For purposes of this section, interest includes original issue discount and amounts treated as interest (whether stated or unstated) in any lending or deferred payment transaction. Accrued interest determined under this section is taken into account by a taxpayer under the taxpayer's regular method of accounting (e.g., an accrual method or the cash receipts and disbursements method). Application of an exception described in paragraph (a)(2) of this section to one party to a transaction does not affect the application of this section to any other party to the transaction.

(2) *Exceptions*—(i) *Interest included or deducted under certain other provisions.* This section does not apply to interest that is taken into account under—

(A) Sections 1272(a), 1275, and 163(e) (income and deductions relating to original issue discount);

(B) Section 467(a)(2) (certain payments for the use of property or services);

(C) Sections 1276 through 1278 (market discount);

(D) Sections 1281 through 1283 (discount on certain short-term obligations);

(E) Section 7872(a) (certain loans with below-market interest rates); or

(F) Section 1.1272-3 (an election by a holder to treat all interest on a debt instrument as original issue discount).

(ii) *De minimis original issue discount.* This section does not apply to de minimis original issue discount (other than de minimis original issue discount treated as qualified stated interest) as determined under § 1.1273-1(d). See § 1.163-7 for the treatment of de minimis original issue discount by the issuer and §§ 1.1273-1(d) and 1.1272-3 for the treatment of de minimis original issue discount by the holder.

(b) *Accrual of qualified stated interest.* Qualified stated interest (as defined in § 1.1273-1(c)) accrues ratably over the accrual period (or periods) to which it is attributable and accrues at the stated rate for the period (or periods).

(c) *Accrual of interest other than qualified stated interest.* Subject to the modifications in paragraph (d) of this section, the amount of interest (other than qualified stated interest) that accrues for any accrual period is determined under rules similar to those in the regulations under sections 1272 and 1275 for the accrual of original issue discount. The preceding sentence applies regardless of any contrary formula agreed to by the parties.

(d) *Modifications*—(1) *Issue price.* The issue price of the loan or contract is equal to—

(i) In the case of a contract for the sale or exchange of property to which section 483 applies, the amount described in § 1.483-2(a)(1)(i) or (ii), whichever is applicable;

(ii) In the case of a contract for the sale or exchange of property to which section 483 does not apply, the stated principal amount; or

(iii) In any other case, the amount loaned.

(2) *Principal payments that are not deferred payments.* In the case of a contract to which section 483 applies, principal payments that are not deferred payments are ignored for purposes of determining yield and adjusted issue price.

(e) *Allocation of interest to payments*—

(1) *In general.* Except as provided in paragraphs (e)(2), (e)(3), and (e)(4) of this section, each payment under a loan (other than payments of additional interest or similar charges provided with respect to amounts that are not paid when due) is treated as a payment of interest to the extent of the accrued and unpaid interest determined under paragraphs (b) and (c) of this section as of the date the payment becomes due.

(2) *Special rule for points deductible under section 461(g)(2).* If a payment of points is deductible by the borrower under section 461(g)(2), the payment is treated by the borrower as a payment of interest.

(3) *Allocation respected in certain small transactions.* [Reserved]

(4) *Pro rata prepayments.* Accrued but unpaid interest is allocated to a pro rata prepayment under rules similar to those for allocating accrued but unpaid original issue discount to a pro rata prepayment under § 1.1275-2(f). For purposes of the preceding sentence, a pro rata prepayment is a payment that is made prior to maturity that—

(i) Is not made pursuant to the contract's payment schedule; and

(ii) Results in a substantially pro rata reduction of each payment remaining to be paid on the contract.

(f) *Aggregation rule.* For purposes of this section, all contracts calling for deferred payments arising from the same transaction (or a series of related transactions) are treated as a single contract. This rule, however, generally only applies to contracts involving a single borrower and a single lender.

(g) *Debt instruments denominated in a currency other than the U.S. dollar.* This section applies to a debt instrument that provides for all payments denominated in, or determined by reference to, the functional currency of the taxpayer or qualified business unit of the taxpayer (even if that currency is other than the U.S. dollar). See § 1.988-2(b) to determine interest income or expense for debt instruments that provide for payments denominated in, or determined by reference to, a nonfunctional currency.

(h) *Example.* The following example illustrates the rules of this section.

## § 1.446-3

*Example.* Allocation of unstated interest to deferred payments—(i) *Facts.* On July 1, 1996, A sells his personal residence to B for a stated purchase price of \$1,297,143.66. The property is not personal use property (within the meaning of section 1275(b)(3)) in the hands of B. Under the loan agreement, B is required to make two installment payments of \$648,571.83 each, the first due on June 30, 1998, and the second due on June 30, 2000. Both A and B use the cash receipts and disbursements method of accounting and use a calendar year for their taxable year.

(ii) *Amount of unstated interest.* Under section 483, the agreement does not provide for adequate stated interest. Thus, the loan's yield is the test rate of interest determined under § 1.483-3. Assume that both A and B use annual accrual periods and that the test rate of interest is 9.2 percent, compounded annually. Under § 1.483-2, the present value of the deferred payments is \$1,000,000. Thus, the agreement has unstated interest of \$297,143.66.

(iii) *First two accrual periods.* Under paragraph (d)(1) of this section, the issue price at the beginning of the first accrual period is \$1,000,000 (the amount described in § 1.483-2(a)(1)(i)). Under paragraph (c) of this section, the amount of interest that accrues for the first accrual period is \$92,000 ( $\$1,000,000 \times .092$ ) and the amount of interest that accrues for the second accrual period is \$100,464 ( $\$1,092,000 \times .092$ ). Thus, \$192,464 of interest has accrued as of the end of the second accrual period. Under paragraph (e)(1) of this section, the \$648,571.83 payment made on June 30, 1998, is treated first as a payment of interest to the extent of \$192,464. The remainder of the payment (\$456,107.83) is treated as a payment of principal. Both A and B take the payment of interest (\$192,464) into account in 1998.

(iv) *Second two accrual periods.* The adjusted issue price at the beginning of the third accrual period is \$543,892.17 ( $\$1,092,000 + \$100,464 - \$648,571.83$ ). The amount of interest that accrues for the third accrual period is \$50,038.08 ( $\$543,892.17 \times .092$ ) and the amount of interest that accrues for the final accrual period is \$54,641.58, the excess of the amount payable at maturity (\$648,571.83), over the adjusted issue price at the beginning of the accrual period (\$593,930.25). As of the date the second payment becomes due, \$104,679.66 of interest has accrued. Thus, of the \$648,571.83 payment made on June 30, 2000, \$104,679.66 is treated as interest and \$543,892.17 is treated as principal. Both A and B take the payment of interest (\$104,679.66) into account in 2000.

(i) [Reserved]

(j) *Effective date.* This section applies to debt instruments issued on or after April 4, 1994, and to lending transactions, sales, and exchanges that

## 26 CFR Ch. I (4-1-10 Edition)

occur on or after April 4, 1994. Taxpayers, however, may rely on this section for debt instruments issued after December 21, 1992, and before April 4, 1994, and for lending transactions, sales, and exchanges that occur after December 21, 1992, and before April 4, 1994.

[T.D. 8517, 59 FR 4804, Feb. 2, 1994]

### § 1.446-3 Notional principal contracts.

(a) *Table of contents.* This paragraph (a) lists captioned paragraphs contained in § 1.446-3.

#### § 1.446-3 Notional principal contracts.

- (a) Table of contents.
  - (b) Purpose.
  - (c) Definitions and scope.
    - (1) Notional principal contract.
      - (i) In general.
      - (ii) Excluded contracts.
      - (iii) Transactions within section 475.
      - (iv) Transactions within section 988.
    - (2) Specified index.
    - (3) Notional principal amount.
    - (4) Special definitions.
      - (i) Related person and party to the contract.
      - (ii) Objective financial information.
      - (iii) Dealer in notional principal contracts.
      - (d) Taxable year of inclusion and deduction.
        - (e) Periodic payments.
          - (1) Definition.
          - (2) Recognition rules.
            - (i) In general.
            - (ii) Rate set in arrears.
            - (iii) Notional principal amount set in arrears.
          - (3) Examples.
          - (f) Nonperiodic payments.
            - (1) Definition.
            - (2) Recognition rules.
              - (i) In general.
              - (ii) General rule for swaps.
              - (iii) Alternative methods for swaps.
                - (A) Prepaid swaps.
                - (B) Other nonperiodic swap payments.
              - (iv) General rule for caps and floors.
                - (v) Alternative methods for caps and floors that hedge debt instruments.
                  - (A) Prepaid caps and floors.
                  - (B) Other caps and floors.
                  - (C) Special method for collars.
                - (vi) Additional methods.
              - (3) Term of extendible or terminable contracts.
                - (4) Examples.
                - (g) Special rules.
                  - (1) Disguised notional principal contracts.
                  - (2) Hedged notional principal contracts.
                  - (3) Options and forwards to enter into notional principal contracts.